



# PUBLIC NOTICE

**Federal Communications Commission**  
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Washington, D.C. 20554

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**DA 11-395**  
**Released: February 28, 2011**

## **COMMENTS INVITED ON APPLICATION OF DSLNET COMMUNICATIONS LLC AND MEGAPATH INC. TO DISCONTINUE DOMESTIC TELECOMMUNICATIONS SERVICES**

**WC Docket No. 11-34**  
**Comp. Pol. File No. 981**

**Comments Due: March 15, 2011**

### **Section 214 Application**

**Applicants: DSLnet Communications LLC and MegaPath Inc.**

On February 10, 2011, **DSLnet Communications LLC**, located at **50 Barnes Park North, Suite 104, Wallingford, CT 06492** and **MegaPath Inc.**, located at **555 Anton Boulevard, Suite 200, Costa Mesa, CA 92626** (collectively DSLnet/MegaPath or Applicants), filed an application with the Federal Communications Commission (FCC or Commission) requesting authority, under section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214, and section 63.71 of the Commission's rules, 47 C.F.R. § 63.71, to discontinue the provision of certain domestic telecommunications services in California, Connecticut, Kentucky, Maryland, Massachusetts, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia and Wisconsin (collectively Service Areas).<sup>1</sup> On February 23, 2011, DSLnet/MegaPath filed an amendment in order to correct certain deficiencies in its initial application and update the record regarding the states affected by its proposed discontinuance. Accordingly, DSLnet/MegaPath's application is deemed complete as of February 23, 2011.

DSLnet/MegaPath indicates that it is a nationwide broadband provider that currently provides interstate special access high speed DSL and Internet service in the Service Areas. DSLnet/MegaPath explains that its special access DSL service is used for the provision of high-speed Internet access under the "MegaPath" brand. DSLnet/MegaPath states, however, that in an effort to maintain its broadband network in the most efficient manner possible, it has identified 25 central offices in its network that will be shut down. According to DSLnet/MegaPath, these central offices have been stagnant in growth for some time and only support 130 direct end user customers, 39 enterprise and 16 wholesale carriers. DSLnet/MegaPath adds that 213 circuits provisioned through the wholesale carriers will be affected by the proposed discontinuance. DSLnet/MegaPath specifically states that it plans to discontinue interstate special access high speed DSL service to the affected customers on March 31, 2011, subject to regulatory approval. DSLnet/MegaPath maintains that the proposed discontinuance will not result in harm to customers because CLECs and ILECs in the Service Areas continue to offer high speed data and Internet service, and customers will have the opportunity to select another carrier for their needs.

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<sup>1</sup> DSLnet/MegaPath's application was subsequently received in the Competition Policy Division of the Wireline Competition Bureau on February 11, 2011.

DSLnet/MegaPath represents that in December 2010 and January 2011, it contacted all affected direct end user and enterprise customers via email and an outbound calling campaign to inform them of the proposed discontinuance and to advise that they contact Applicants to determine if there were potential service alternatives. DSLnet/MegaPath indicates that the email communication and calling representatives provided a toll-free number for customers to call either to disconnect their service or to investigate alternatives using DSLnet/MegaPath affiliate service. DSLnet/MegaPath represents that in December 2010 and January 2011, it also contacted affected wholesale customers via email and an outbound calling campaign to inform them of the proposed discontinuance and shutdown of specific central offices. DSLnet/MegaPath states that each wholesale customer received a list of its circuits that would be impacted by the planned closures and was encouraged to work with their end users to find a new provider for their Internet services. DSLnet/MegaPath represents that, in addition to its original email communication and calling campaign, it mailed written notice of the proposed discontinuance to all affected customers in accordance with the requirements of Section 63.71(a) on February 9, 2011 and February 10, 2011. DSLnet/MegaPath states that it is considered non-dominant with respect to the services to be discontinued.

We seek comment on DSLnet/MegaPath proposed discontinuance of service, including the steps it has taken to notify customers, in light of the notification procedures prescribed in section 63.71(a) of the Commission's rules. In accordance with section 63.71(c) of the Commission's rules, DSLnet/MegaPath's application will be deemed to be granted automatically on the 31st day after the release date of this public notice, unless the Commission notifies DSLnet/MegaPath that the grant will not be automatically effective. In its application and notices to customers, DSLnet/MegaPath indicates that it plans to discontinue services on March 31, 2011, subject to regulatory approval. Accordingly, pursuant to section 63.71(c) and the terms of DSLnet/MegaPath's application and notices, absent further Commission action, DSLnet/MegaPath may terminate the affected services in the Service Areas on or after **March 31, 2011**. The Commission normally will authorize proposed discontinuances of service unless it is shown that customers or other end users would be unable to receive service or a reasonable substitute from another carrier, or that the public convenience and necessity would be otherwise adversely affected.

This proceeding is considered a "permit but disclose" proceeding for purposes of the Commission's ex parte rules, 47 C.F.R. §§ 1.1200-1.1216. Comments objecting to this application must be filed with the Commission on or before **March 15, 2011**. Such comments should refer to **WC Docket No. 11-34 and Comp. Pol. File No. 981**. Comments should include specific information about the impact of this proposed discontinuance on the commenter, including any inability to acquire reasonable substitute service. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Filers should follow the instructions provided on the Web site for submitting comments. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, filers should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

Parties who choose to file by paper must file an original and four copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street, S.W., Room TW-A325, Washington, D.C. 20554. The filing hours are Monday through Friday, 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must

be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

Two copies of the comments should also be sent to the Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 5-C140, Washington, D.C. 20554, Attention: Carmell Weathers. In addition, comments should be served upon the Applicants. Commenters are also requested to fax their comments to the FCC at (202) 418-1413, Attention: Carmell Weathers.

The application will be available for public inspection and copying during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554, (202) 418-0270. A copy of the application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone (202) 488-5300, facsimile (202) 488-5563, or via e-mail at [FCC@BCPIWEB.COM](mailto:FCC@BCPIWEB.COM). People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (tty).

For further information, contact Carmell Weathers, (202) 418-2325 (voice), [carmell.weathers@fcc.gov](mailto:carmell.weathers@fcc.gov), or Kimberly Jackson, (202) 418-7393 (voice), [kimberly.jackson@fcc.gov](mailto:kimberly.jackson@fcc.gov), of the Competition Policy Division, Wireline Competition Bureau. The tty number is (202) 418-0484. For further information on procedures regarding section 214 please visit [http://www.fcc.gov/wcb/cpd/other\\_adjud](http://www.fcc.gov/wcb/cpd/other_adjud).

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